

Meeting of 2005-9-27 Regular Meeting

MINUTES  
LAWTON CITY COUNCIL REGULAR MEETING  
SEPTEMBER 27, 2005 - 6:00 P.M.  
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor John P. Purcell, Jr.	Also Present:
Presiding	Greg Buckley, Assistant City Manager
	John Vincent, City Attorney
	Traci Hushbeck, City Clerk
	COL Sonny Uberti, Fort Sill Liaison

Mayor Purcell called the meeting to order at 6:00 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by the Pastor Chris Stephens, Dayspring Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT:	Bill Shoemate, Ward One
Rex Givens, Ward Two	
	Janice Drewry, Ward Three
	Keith Jackson, Ward Four
Robert Shanklin, Ward Five	
Jeffrey Patton, Ward Six	
	Stanley Haywood, Ward Seven
	Randy Warren, Ward Eight

ABSENT: None

MEETING CALLED TO ORDER WITH INVOCATION AND PLEDGE OF ALLEGIANCE

CLEAN AIR OF LAWTON AWARDS PRESENTATION

Mayor Purcell stated the City of Lawton recently wrapped up a carpool crazy contest in conjunction with KLAJ and KJZZ where residents were encouraged to car pool to save fuel and help keep the air cleaner. A drawing was held and the Mayor asked the prize winners and the managers of the two stations to come forward. He thanked everyone for their participation.

COMMENDATION FOR MACARTHUR HIGH SCHOOL KEY CLUB

Mayor Purcell invited all members of the MacArthur High School Key Club to come to the stage. This group volunteered to paint 319 fire hydrants on the east side of Lawton. They have since passed the torch to Eisenhower High School who will try to paint more hydrants and hopefully will pass on to Lawton High. He stated that one day one or more of these students will be sitting at the council table and it is great to see the youth of our community getting involved. He presented a Certificate of Commendation to the group.

PROCLAMATION FOR SICKLE CELL MONTH

Mayor Purcell presented a proclamation to Desiree Anderson proclaiming September as Sickle Cell Anemia Month.

PRESENTATION OF EMPLOYEE OF MONTH TO JACKIE WARD, FIELD SUPERVISOR IN THE STREETS DIVISION OF THE PUBLIC WORKS DEPARTMENT FOR THE MONTH OF SEPTEMBER.

Jerry Ihler, Public Works Director, presented the employee of the month, Jackie Ward. He stated several months ago an exercise was conducted in Lawton which distributed medication to the citizens. Jackie was asked to look at several areas in regards to traffic control. She attended all the meetings after hours and was commended for her traffic control plan. She is also a talented artist whose works have been featured through the International Festival. Mayor Purcell presented a plaque, certificate of honor, two days of nonchargeable leave, script money from Chamber merchants and a Mayor's Do What's Right coin. Jackie thanked everyone involved and stated without her crew she could not have gotten anything done.

AUDIENCE PARTICIPATION: None

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL MEETINGS OF AUGUST 9 AND AUGUST 23, 2005.

MOVED by Warren, SECOND by Haywood, to approve the Minutes of August 9 and August 23, 2005. AYE: Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin. NAY: None. MOTION CARRIED.

CONSENT AGENDA: Mayor Purcell requested item 14 be stricken and separate consideration for item 6. Councilman Jackson requested item 16 be considered separately.

MOVED by Warren, SECOND by Shoemate, to approve the Consent Agenda items as recommended with the exception of items 6, 14 and 16. AYE: Shoemate, Givens, Drewry, Jackson, Shanklin, Patton, Haywood, Warren. NAY: None. MOTION CARRIED.

1. Consider setting a public hearing on October 25, 2005 at 6 o'clock pm in the City Council Chambers to hear any comments for or against the annexation of a certain piece of property described as part of the Southwest Quarter of Section 23, Township 2 North, Range 11 West into City Limits. Exhibits: Location Map Notice of Public Hearing.
2. Consider renewing the agreement between the Board of County Commissioners of Comanche County and the City of Lawton for library service to Comanche County residents living outside the City of Lawton. Exhibits: Agreement is on file in the City Clerk s office.
3. Consider acknowledging receipt of a permit from the Oklahoma State Department of Environmental Quality for the construction of 1,076 linear feet of eight (8) inch PVC gravity sewer line and all appurtenances to serve the Bishop School, City of Lawton, Comanche County, Oklahoma. Exhibits: None
4. Consider authorizing a fundraiser sponsored by local bands in southwest Oklahoma to be held in Elmer Thomas Park to benefit victims of Hurricane Katrina on Sunday, October 9, 2005 and charge a \$5.00 per person to attend while accessing by vehicle into the park and to sell food and drink concessions which all proceeds will go to the local Red Cross. Exhibits: Letter of request.
5. Consider authorizing a fund-raiser sponsored by the Lawton Civilian Police Academy Association to be held in Elmer Thomas Park to benefit the Lawton Police Department on November 5, 2005 for the purpose of funding the Annual Awards Banquet with coupons of \$2.00 per person being sold prior to the event. Exhibits: Letter of request.
6. Consider declaring an emergency and waiving the competitive bidding requirements for the Fire Station #4 Re-Roofing Project #2005-14. Exhibits: None

Mayor Purcell stated this item was pulled because it must be approved separately and declared an emergency.

Shanklin questioned if bids were going to be accepted.

Bart Hadley, Fire Chief, stated they do have a severe problem at Fire Station #4 and are trying to get this done quickly. They have had three different roofing contractors come out to give quotes, but they are trying to avoid the formal bidding process so they can get this done quickly.

Shanklin questioned if the job was going to be bid locally.

Chief Hadley stated yes.

Vincent stated he would like the record to reflect that the reason for the emergency is set out in paragraph two of the background and needs to be put in the record to comply with the charter and state statutes with waiving competitive bidding.

Mayor Purcell read that paragraph which states: Water damage is now causing health concerns due to mold and mildew an additional rainfall could cause additional damage to the interior of the building.

Chief Hadley stated the Engineering Division has contacted several roof contractors to give quotes.

MOVED by Shanklin, SECOND by Patton, to declare an emergency and waive the competitive bidding requirements for the Fire Station #4 Re-Roofing Project #2005-14 because water damage is now causing health concerns due to mold and mildew an additional rainfall could cause additional damage to the interior of the building. AYE: Givens, Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate. NAY: None. MOTION CARRIED.

7. Consider approving the construction plat for Wolf Creek Town Center, Phase I, subject to conditions. Exhibits: Plat map.
8. Consider approving the construction plat for Wyatt Village Addition, Part 1, subject to conditions. Exhibits: Plat map and CPC minutes.
9. Consider approving the construction plat for Regal Estates, Part 5, subject to conditions. Exhibits: Plat map.
10. Consider authorizing the Mayor to execute the recertification application for the Community Rating System of the National Flood Insurance Program. Exhibits: Recertification Application is on file in the City Clerk's Office.
11. Consider ratifying the action of the Lawton Water Authority to approve the Surface Sub-Lease Contracts for Tract E- 14 and E-25 at Lake Ellsworth between the Lawton Water Authority and Cameron University, and authorize the Mayor and City Clerk to execute the Contract. Exhibits: Leases are on file in the City Clerk's Office.
12. Consider entering into an agreement with the Oklahoma State Department of Health to perform services related to Food Handler Permits and restaurant inspections. Exhibits: Memorandum of Agreement.
13. Consider adopting a street light resolution to authorize the installation of street lights at the specified locations. Exhibits: Street Light Resolution No. 437
14. Consider approving a request from MPRI to produce a high-impact, quality pamphlet for the Phase III-Fort Sill 2050 plan and authorize the Mayor and City Clerk to execute the documents required for the grant application to the Oklahoma Strategic Military Planning Commission. Exhibits: Letter dated August 2, 2005 from MPRI to Dana Davis and Letter dated August 18, 2005 from MPRI to Larry Mitchell.

THIS ITEM WAS STRICKEN

15. Consider rejecting bids for Biomonitoring Testing (CL06-002). Exhibits: Recommendation Memo, dated August 26, 2005, from Wastewater Treatment Plant Chief Chemist, Review Memo to WWTP dated August 24, 2005, from Financial Services Supervisor, Vendor's Mailing List, Bid Tabulation.
16. Consider approving the following contract extensions: A) Automatic Transmission Repair (CL05-016), K-Co DBA Mr. Transmission, of Lawton, Oklahoma Equipment Maintenance B) Tire Recapping (CL04-005), Mileage Masters, Inc., of Oklahoma City, Oklahoma Equipment Maintenance and C) Pest Control Services (CL04-028), Advanced Pest & Termite Services, of Fletcher, Oklahoma Building Maintenance

Jackson questioned if the city goes out for rebid on the contracts annually or are they always extended.

Vincent stated the contracts allow for three extensions on some and two on others. There cannot be changes in the bid price or the specifications. Routinely they do extend due to the cost of rebidding. If there are problems, they do rebid. Contracts cannot go past three years.

Jackson stated he approves of this because in today's market, if they can get anyone to hold prices they should take it while they can. He just wanted to clarify our policy on extending contracts.

MOVED by Jackson, SECOND by Drewry, to authorize the extension of contracts and authorize execution of contract extension forms. AYE: Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens. NAY: None. MOTION CARRIED.

17. Consider approval of payroll for the periods of August 29- September 11, 2005. Exhibits: None.

OLD BUSINESS ITEM:

18. Consider the following damage claim recommended for denial: Javier Solis. Exhibits: Copy of Claims Memorandum/Recommendation dated August 25, 2005.

Vincent stated this claim was sent back to council for further investigation and a determination if it is payable and

an appropriate price. They have reinvestigated the claim and basically it comes down to the work of the plumber who says the crack in the main caused the service line to collapse. Staff says the crack in the main could not have caused the service line to collapse.

MOVED by Shanklin, SECOND by Jackson, to deny the claim. AYE: Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Drewry. NAY: None. MOTION CARRIED.

#### NEW BUSINESS ITEMS:

19. Hold public hearings and adopt resolutions declaring the structures at: 807 SW 3<sup>rd</sup> Street, 914 SW E Avenue, 1511 SW Bishop Road, 309 NW Dearborn Avenue, 1202 SW F Avenue, 811 SW Jefferson Avenue, 1817 SW Garfield Avenue, 2501 SW A Avenue to be dilapidated public nuisances, thus causing a blighting influence on the community and detrimental to the public's health and safety. Authorize the City Attorney to commence legal action in district court to abate each nuisance. Further authorize Neighborhood Services to solicit bids to raze and remove each dilapidated structure, if necessary. Exhibits: Resolutions No 05-\_\_\_\_; No 05-\_\_\_\_; No 05-\_\_\_\_; No 05-\_\_\_\_; No 05-\_\_\_\_; No 05-\_\_\_\_; No 05-\_\_\_\_; No 05-\_\_\_\_; No 05-\_\_\_\_; Summary documents with supporting photos. Reports from the Fire Marshal, Housing Inspectors, and case history are available from Neighborhood Services.

807 SW 3<sup>rd</sup> Street: Tony Griffith, Neighborhood Services Supervisor, presented photographs of the property. He stated the structure was declared dilapidated on January 25th with Resolution 05-10, however, an error in the title has forced staff to bring this property back to the City Council. There have been no improvements made to the structure. There have been no utilities since May 2003. It presents a health and safety risk to the community.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Haywood, SECOND by Shanklin, to approve **Resolution No. 05-161** and declare the structure at 807 SW 3<sup>rd</sup> Street to be dilapidated and a public nuisance. AYE: Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson. NAY: None. MOTION CARRIED.

914 SW E Avenue: Griffith presented photographs of the property. He stated the structure was declared dilapidated on April 26th with Resolution 05-70, however an error in the legal address has forced staff to bring this property back to the City Council. He stated Mr. Herzog has made several improvements to the structure, however it still does not meet city code compliance. It is to Mr. Herzog's advantage to have the property still declared dilapidated because it starts the process all over.

Jackson stated he has spoken with Mr. Herzog who told him he was going to continue the process to bring it up to code and rent out the property. He stated originally he was told it was going to be used as storage, which he opposes.

Griffith stated he was assured by Mr. Herzog that he will be in tomorrow to obtain his permit. He stated he has spent a lot of money on the renovations.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Shanklin, SECOND by Haywood, to approve **Resolution No. 05-162** and declare the structure at 914 SW E Avenue to be dilapidated and a public nuisance. AYE: Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin. NAY: None. MOTION CARRIED.

1511 SW Bishop Road: Griffith presented photographs of the property. He stated the structure was declared dilapidated on June 14th with Resolution 05-101, however an error in the title has forced staff to bring the property back to the City Council. He stated there have been no improvements made to the structure.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Haywood, SECOND by Shanklin, to approve **Resolution No. 05-163** and declare the structure at 1511 SW Bishop Road to be dilapidated and a public nuisance. AYE: Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens. NAY: None. MOTION CARRIED.

309 NW Dearborn: Griffith presented photographs of the property. He stated the structure was declared dilapidated on June 14th with Resolution 05-106, however the notice was mailed to the incorrect address and the legal owner was not properly notified. The condition of the property remains the same. There have been no utilities since March 2004.

Patton questioned if staff has made any procedural changes to alleviate these mistakes.

Griffith stated at the last meeting, the City Council approved an agreement with a local attorney to research the titles and legal addresses on these properties. They should not have this problem in the future.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Shanklin, SECOND by Haywood, to approve **Resolution No. 05-164** and declare the structure at 309 NW Dearborn to be dilapidated and a public nuisance. AYE: Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Drewry. NAY: None. MOTION CARRIED.

1202 SW F Avenue: Griffith presented photographs of the property. He stated the structure was declared dilapidated on May 11, 2004 with Resolution 04-50, however an error in the title has forced staff to bring the property back to the City Council. There have been no improvements made on the property.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Shanklin, SECOND by Haywood, to approve **Resolution No. 05-165** and declare the structure at 1202 SW F Avenue to be dilapidated and a public nuisance. AYE: Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson. NAY: None. MOTION CARRIED.

811 SW Jefferson Avenue: Griffith presented photographs of the property. He stated there are four structures on the property, two main structures and two accessory structures. They are all vacant and unsecured. There have been no utilities since October 2003.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Haywood, SECOND by Shanklin, to approve **Resolution No. 05-166** and declare the structure at 811 SW Jefferson Avenue to be dilapidated and a public nuisance. AYE: Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin. NAY: None. MOTION CARRIED.

1817 SW Garfield Avenue: Griffith presented photographs of the property. He stated the structure was declared dilapidated on July 14, 2004 with Resolution 04-94, however an error in the title has forced staff to bring the property back to the City Council. He stated there has been no improvements made to the structures.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Haywood, SECOND by Shanklin, to approve **Resolution No. 05-167** and declare the structure at 1817 SW Garfield Avenue to be dilapidated and a public nuisance. AYE: Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin, Patton. NAY: None. MOTION CARRIED.

2501 SW A Avenue: Griffith presented photographs of the property. He stated the structure was declared dilapidated on the March 9, 2005 with Resolution 05-38, however there was an incorrect legal address. The condition of the structure has not improved.

Shanklin questioned if anyone has heard from the owners.

Griffith stated he has spoken with their attorney who assured him that once the property is declared dilapidated he would obtain a permit to remodel and bring the property up to compliance.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Shanklin, SECOND by Haywood, to approve **Resolution No. 05-168** and declare the structure at 2501 SW A Avenue to be dilapidated and a public nuisance. AYE: Warren, Shoemate, Givens, Drewry, Jackson, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

20. Hold a public hearing to receive input from citizens and consider and receive a briefing on the Consolidated Annual Performance and Evaluation Report (CAPER) for Federal Fiscal Year (FFY) 2004, and approve the report for submission to HUD. Exhibits: The CAPER is on file in the City Clerk's Office.

Mayor Purcell suggested they hold the public hearing before receiving the report.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

Tom Aplin, Assistant Director of Housing and Community Development, stated that each year HUD requires that the community submit a Consolidated Annual Performance and Evaluation Report which outlines the accomplishments over the year. The public hearing is part of the citizen participation requirement for submission and development of the annual performance report and to provide the council with an overview of the contents of that report and the performance of the programs over the past year.

He stated the year they will be talking about began July 2004 and ended June 30, 2005. One of the requirements is to provide a CDBG financial summary. Slides were shown to cover that summary. He stated the FFY 2004 grant was \$1,056,000. During the year they reprogrammed \$22,000 and they received \$6,118 in program income which was allocated. Total funds available at the beginning of the period were \$1,978,564. He stated they expended \$944,476 leaving an unexpended balance of \$1,034,085. He talked briefly about HUD criteria for performance in the Community Development Block Grant program. HUD requires a minimum of 70% of those must benefit low and moderate income individuals. This year the percentage was 88% and well above the minimum criteria. They are also required to report on the public service cap. They can only expend up to 15% of their annual allocation plus program income received during the previous year on public services. The total base of their calculation is \$1,062,118. The percentage of funds allocated for public services were just shy of 14%. There is also a 20% cap on administration for the program. The total percent expended was 19.95%. He stated because of reductions in funding, it has become much more tighter in administration and public service projects. A community should have no more than 1.5% of their annual allocation remaining in their account at the end of the program year. Their CDBG balance at the end of year was \$1,034,085 which was 0.979 or 98% of the entitlement amount.

Mayor Purcell stated that the report stated they only used 14% for services and could have used 15%. He questioned if the other 1% was still available for use.

Tim Libby, Housing and Community Development Division, stated that for the last month of July some of the public services will not have spent all their money. At the end of June they usually come out with 14.5% of the money they could spend and the rest will trickle in. He stated the money rolls into their contingency which they are able to use on other projects, but no longer on public service or administration. He stated that money usually does not amount to very much.

Aplin moved on to the HOME Program. The funds available were \$1,356,580 for allocation and expenditure during the period. As part of the HOME report they are required to submit a HOME performance report. Slides were shown to cover that report. He stated they are also required to report the status of their match. The HOME Program requires a 25% match of communities that receive HOME Program dollars. The city of Lawton get a 100% waiver and are not required to match the HOME dollars. They have accumulated \$834,938 in matching equivalents in case they ever have to start paying match. These are not dollars in the bank. He covered the time line criteria.

Aplin briefly provided an overview of how all the funds from all the programs were used.

Mayor Purcell questioned if there was a balance in public services that were not expended.

Aplin stated the services can be provided up to June 30<sup>th</sup>. There is usually a substantial portion of those funds that aren't actually paid out until after July 1<sup>st</sup>. He stated sometimes they don't get a request for funding until August.

Givens stated he has been asking for some time for a list of outstanding projects and the status of those projects.

MOVED by Haywood, SECOND by Patton, to approve the report for submission to HUD and authorize the Mayor to sign the report. AYE: Shoemate, Givens, Drewry, Jackson, Patton, Haywood, Warren. NAY: None. ABSENT: Shanklin. MOTION CARRIED.

21. Consider an ordinance pertaining to recreation amending Sections 19-4-406 and 19-4-413, Article 19-4, Chapter 19, Lawton City Code, 1995 by setting provisions to allow animals to be hunted that are destroying property, providing for severability and declaring an emergency. Exhibits: Ordinance No. 05-\_\_\_\_.

Kim Shahan, Parks and Recreation Director, stated this is a request to amend our ordinance to allow hunting for the purpose of removing predators and to hunt with hunting dogs. The primary reason is the feral hog growth in the Wichita Mountains that is now extended into the City of Lawton property lines on the west side of Lake Lawtonka which is a primary hunting area for deer and elk. He stated the next item to be discussed will be retaining a professional to assist in the process. The Lakes and Land Commission has approved adopting the ordinance.

Drewry questioned why the ordinance just says animals.

Shahan stated it refers to any animal that is destroying the property.

Shoemate questioned if we could have a hunting season and make money on the hunt.

Shahan stated the need is to eliminate as many as possible and the hunting season for this particular animal is year round. Everyone can hunt at anytime, but there are not enough hunters that know how to hunt for this animal.

This ordinance will allow staff to put someone in position to help eliminate the problem.

Warren stated the ordinance calls for trapping and questioned if there was another ordinance that requires it be humane trapping.

Shahan stated these are live traps.

Patton questioned what they will do with the animals.

Shahan stated they are hunted for the purpose of food and also trapped and sent elsewhere for hunting purposes.

MOVED by Drewry, SECOND by Patton, to approve **Ordinance No. 05-79** waive the reading of the ordinance, read the title only and declare an emergency. AYE: Givens, Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 05-79

An ordinance pertaining to recreation amending Sections 19-4-406 and 19-4-413, Article 19-4, Chapter 19, Lawton City Code, 1995, by setting provisions to allow animals to be hunted that are destroying property, providing for severability and declaring an emergency.

22. Consider a retainer agreement for professional services to be provided by Frank Waits, an independent contractor, and the City of Lawton for the hunting, trapping and removal of feral hogs on City owned property in accordance with the Lawton City Code Section 19-4-411-C5. Exhibits: Retainer Agreement for Professional Services.

MOVED by Shoemate, SECOND by Jackson, to approve a retainer agreement for professional services with Frank Waits. AYE: Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens. NAY: None. MOTION CARRIED.

23. Consider an ordinance amending, Section 19-6-606, Article 6-606, Chapter 19, Lawton City Code, 1995, pertaining to adding regulation to include the issuance of a three (3) inch identification number for the golf carts used at the lake areas by providing a definition of the term golf carts used at the lake areas, providing for severability and effective date. Exhibits: Ordinance No. 05-\_\_\_\_.

Shahan stated this item will allow the police to identify the golf carts being used at the lake by placing a three inch identification number that would be a part of the permit process. It also establishes the definition of a golf cart. Any other type of vehicle would not be able to be used at the lake.

Jackson questioned if they were having trouble with vehicles other than golf carts.

Vincent stated there are other vehicles called golf course mules which are maintenance vehicles with a bigger engine and knobby tires. They go too fast in the lake area.

Shahan said the tires on those vehicles are similar to an ATV which destroy the ground.

Patton questioned if this item has been through the Lakes and Land Commission.

Shahan stated they have approved this item.

MOVED by Drewry, SECOND by Haywood, to approve **Ordinance No. 05-80** waive the reading of the ordinance, read the title only. AYE: Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Drewry. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 05-80

An ordinance pertaining to recreation amending Section 19-6-606, Article 19-6, Chapter 19, Lawton City Code, 1995, by adding rules and regulations for the use of golf carts at Lake Ellsworth and Lake Lawtonka, providing for severability and establishing an effective date.

24. Consider an ordinance pertaining to alcoholic beverages amending Section 4-1-1-109, Division 4-1-1, Article 4-1, Chapter 4, Lawton City Code, 1995 by omitting the regulation regarding on-premise consumption of alcoholic beverages in restaurants operated by concessionaires on City-owned Lake property and repealing Section 4-1-1-118, Division 4-1-1, Article 4-1, Chapter 4, Lawton City Code, 1995 and pertaining to Recreation amending Section 19-1-102, Article 19-1, Chapter 19, Lawton City Code, 1995, and Section 19-2-232, Article 19-2, Chapter 19, Lawton City Code, 1995, by raising the fine regarding the use of intoxicating beverages used on vessels on City lakes to be in conformance with State Statutes, providing for severability, repealer and effective date. Exhibits: Ordinance No. 05-\_\_\_\_.

Shahan stated this item amends the policies related to alcoholic beverages in the lake areas and on the lakes.

There was a combination of a lot of things that just needed clarification to be placed within the framework of the ordinance. He stated they were having problems with language within the ordinance. All the changes have been approved by the Lakes and Land Commission. There was very extensive discussion with public input.

Shanklin questioned if COL Hawthorne, Chairman of Lakes and Land Commission, would like to address the Council.

COL Hawthorne stated this item was brought to the City Council for finalization and clarification on this issue.

Shanklin questioned if COL Hawthorne voted in favor of these changes.

COL Hawthorne stated yes.

Shanklin questioned how many people have been arrested for intoxication this year.

Shahan stated to his knowledge no one has been arrested.

Shanklin questioned if this gives the officers working on the weekends more teeth.

Shahan stated that one amendment reflects the amount of the fine. The fine will change from \$200 to \$750 if they are arrested as intoxicated.

Shanklin questioned how much money has been fined this year.

Shahan stated he did not know.

Vincent stated that there have been tickets written this year for the operation of vessels on the lake in a drunken condition. He knows of at least three.

Jackson stated there is a new officer, Ralph Parsons, assigned out at the lake.

Shoemate clarified that 3.2 beer will be allowed, but if they get caught they will be severely punished.

Vincent stated under Oklahoma state law there are two kinds of alcoholic beverages. There are beverages controlled by the ABLE Commission which include wine and hard liquor. Low point beer is controlled by the county and city. This will prohibit the sale, consumption, or possession of hard liquor at the lakes. Low point beer would be permitted to be sold by the concessionaires, possessed and consumed.

Givens stated but not to the point of intoxication.

Mayor Purcell stated the Lakes and Land Commission is attempting to clarify the issue. He questioned if it was correct to say that liquor and wine cannot be sold or consumed on either lakes and lands property or on the lake itself.

Vincent stated yes.

Mayor Purcell stated that low point beer can be sold and consumed on the property of the lakes and can also be consumed on the boats that are on the lake.

Vincent stated this is correct.

Mayor Purcell stated that if a person is found intoxicated on the boat or lake property, it is a violation of the ordinance.

Vincent stated that is correct. He stated that golf carts are motor vehicles under state statute and the alcohol rules for motor vehicles are different than what is in this ordinance. Those laws will apply to golf carts and any other motorized vehicles on the lake.

Drewry questioned how this will affect those staying in trailers. Since that is lake property, they cannot have alcoholic beverages in those trailers.

Vincent stated that is correct.

MOVED by Shanklin, SECOND by Drewry, to approve **Ordinance No. 05-81** waive the reading of the ordinance, read the title only. AYE: Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson. NAY: None. MOTION CARRIED.



An ordinance pertaining to alcoholic beverages amending Section 4-1-1-109, Division 4-1-1, Article 4-1, Chapter 4, Lawton City Code, 1995, by omitting the regulation regarding on-premise consumption of alcoholic beverages in restaurants operated by concessionaires on city-owned lake property and repealing Section 4-1-1-118, Division 4-1-1, Article 4-1, Chapter 4, Lawton City Code, 1995, and pertaining to recreation amending Section 19-1-102, Article 19-1, Chapter 19, Lawton City Code, 1995, and Section 19-2-232, Article 19-2, Chapter 19, Lawton City Code, 1995, by raising the fine regarding the use of intoxicating beverages used on vessels on city lakes to be in conformance with state statutes, providing for severability, repealer and establishing an effective date.

25. Consider adopting an ordinance pertaining to damage to municipal property, creating Section 1-3-301, Article 1-3, Chapter 1, Lawton City Code, 1995, providing for severability, codification, and declaring an emergency.

Exhibits: Ordinance No. 05-\_\_

Drewry stated this came to her attention when Comanche County Memorial Hospital had all the construction done on the helipad. The streets were absolutely torn up in front of driveways because of the construction vehicles. There was no ordinance in place that would hold the contractor responsible for repair, and it fell back onto the city to make these repairs. She believes that those construction vehicles need to be held responsible for any damage that they cause in our city.

Shanklin questioned how that will be ascertained, pre and post.

Vincent stated that during the permit process on a big construction project when they know heavy vehicles will be involved, staff will take a video of the surrounding public property and tell the contractor he will be responsible to return that street to the condition it was in prior to construction.

Givens stated that often construction companies operate under different entities. They could be doing projects under different corporate names.

Vincent stated they can make that amendment.

Givens stated this happens all the time. Sometimes two or three companies are owned by the same person.

Vincent stated individuals and partnerships are fairly easy to define, companies and corporations could be a stockholder company, single individual with outstanding stock or a big firm with thousands of shares of stock. He stated on the smaller companies it would mean not only the corporation but also any primary owners that own more than 50%. He stated if they will go ahead and make the motion to approve he will come up with the appropriate amendment for responsible party under subsection C to include the individuals who own more than 50% of the corporation.

MOVED by Drewry, SECOND by Haywood, to approve **Ordinance No. 05-82** with the amendment, waive the reading of the ordinance, read the title only, and declare an emergency. AYE: Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin. NAY: None. MOTION CARRIED.

An ordinance pertaining to damage to municipal property creating Section 1-3-301, Article 1-3, Chapter 1, Lawton City Code, 1995, by establishing liability when damage occurs on or to municipal property through construction activities, providing for severability, codification, and declaring an emergency.

26. Consider authorizing staff to proceed with the Solid Waste Refuse Collection Pilot Program approving the parameters for implementation of the program. Exhibits: Location Maps showing Pilot Program areas and List of Pilot Program parameters.

Mayor Purcell stated that before they started discussion on this item he wanted to make it clear that this pilot program has absolutely nothing to do with once a week trash collection. This program will have twice a week trash collection.

Jerry Ihler, Public Works Director, stated in May during the 2005-2006 budget process, the City Council approved \$100,000 to purchase 95 gallon containers for the purpose of implementing a pilot program. They should be able to purchase approximately 2,000 containers. Locations were also discussed during the budget process to implement the pilot program. The locations for the Monday/Thursday pickup will be Ward Three. Those routes will include Western Hills Addition, Country Hollow Town House Addition, Meadowbrook Addition, Wolf Creek Addition and Heinz Addition. The Tuesday/Friday route chosen is in Ward Four to include Shelter Creek Estates, Kingsbriar Addition, Stratford Place Addition, Heritage Estates, Coronado Estates, Heritage Hills Addition, Skyline East Addition and Sherwood Trailer Park.

Ihler distributed a pamphlet that will be handed out to citizens in these pilot areas. The main purpose of this item being on the agenda tonight is to set out the parameters that they would like to require and enforce as part of the program. They are looking at a pilot program with twice a week pickup. The city will provide one 95 gallon container. Currently the code allows two 35 gallon containers to be set out. A second container can be leased at a cost of \$5 per month. He stated that all of the trash must be placed inside the container. No trash left outside of the container will be picked up. The containers must be placed at the curb. This section of the code already exists. If someone is moving in or out, they can call for a special pickup with 48 hours notice for a minimum charge of \$40.25 to come out and pickup furniture, carpet, etc.

Haywood questioned how senior citizens and disabled residents will get their trash to the curb.

Ihler stated just as they do today, they will allow house side pickup. Residents do pay a different rate.

Mayor Purcell stated that those who are paying for house side today will continue to receive that service.

Givens questioned what the charge is for house side service.

Ihler stated it is \$14.82 per month. The normal rate is \$11.17 per month.

Ihler stated they will still have the spring and fall clean up programs.

Mayor Purcell stated that currently there is an ordinance in place that states you cannot leave your garbage cans at curbside for the entire week. The same rules will apply to this program.

Patton questioned if Ihler had a cost estimate of how much will be saved if the program was implemented throughout the city.

Ihler stated they looked at incorporating the program over a ten year period and getting into a fully automated aspect with the containers. Comparing the overall cost for the ten year proposed program and the existing program, there is a cost savings of approximately \$2 million. The big cost savings is actually in personnel, because it will be fully automated with one person per truck instead of three. There will also be less workers compensation paid out.

Patton stated his constituents are concerned about the grass clippings in the summer and leaves in the fall.

Ihler stated they will be required to put those clippings in the container. They may need to purchase a second container.

Shoemate stated he is concerned about the \$40 charge for residents who are moving in and need boxes picked up.

Patton stated that those people are setting all that out and the refuse workers are picking it up. They will take whatever is out there.

Mayor Purcell stated that sometimes the moving company will come back and pick up the boxes.

Shanklin asked COL Uberti if he has been exposed to programs with these type of containers.

COL Uberti stated that he has lived in communities that have had curbside pickup that is automated. They have also had curbside recycling which results in less trash. Currently on post at Fort Sill they use the 95 gallon trash container per set of quarters.

Shoemate stated he has spoken to Duncan residents who have the automated service and they complained that often glass would fall out of the truck and onto their driveway. They also complained that when the truck sets down the container it is left in the middle of the driveway. He would like to see these things from happening in Lawton.

Ihler stated that typically the truck should set down the container where it picked it up. As they go through this year with the pilot program, starting in next years budget, they would purchase one fully automated truck and that truck would serve those who have gone through the process for the year. They would then buy an additional 3,000 containers next year and start a pilot program in two other areas. The next year they would buy two trucks to serve those areas. Eventually through a ten year process the program would be fully automated with the exception of some alley areas such as Old Town North that may not be able to use fully automated trucks and they will have to continue with semi-automated in those areas.

Jackson stated he was pleased that the spring and fall clean up programs will still occur. That will give residents a

chance to clean house. He questioned how they will deal with those streets that are lined with parked cars.

Ihler stated that can be a problem, but they can educate residents to set the containers in a location away from the cars.

Jackson stated that most people will have gone to work by the time the trash trucks arrive. He questioned if the city hired temporary employees in the refuse division would those temporary employees be the first to lose their positions before any general employees.

Ihler stated he did not see any sanitation employee losing their job. Right now they have thirteen residential crews and they probably utilize five contract laborers in the winter months and fifteen during the summer. They average a turnover of about four positions a years. They do not fully staff the trucks with city employees.

Jackson stated he believes this is a situation where the City Council could save some taxpayers dollars. He thinks it is a good project that will work. If Fort Sill, Duncan and Ardmore can do this successfully, he believes Lawton can do it.

Shanklin stated he believes they should direct the City Manager to establish a process where the foreman goes ahead of the truck and determines what should be picked up. There is an inequity in what is going on.

Ihler stated they continue to educate the drivers and workers on what not to pick up. They like what they do and provide a great service.

Patton stated the pick up service that they have now is a tremendous benefit to the taxpayers and he has a lot of constituents calling him in support of the current system. He has to agree that the refuse division does a tremendous job. There are a lot of challenges with this new program and he just cannot support this program.

MOVED by Shanklin, SECOND by Jackson, to authorize staff to proceed with the Solid Waste Refuse Collection Pilot Program approving the parameters for implementation of the program. AYE: Givens, Drewry, Jackson, Shanklin, Haywood. NAY: Shoemate, Patton, Warren. MOTION CARRIED.

#### REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Shanklin stated he is embarrassed every time he sees a photo editorial in the paper. This time it is property owned by the City of Lawton. We need to do a better job on our own property. He stated he received an email and questioned if this email qualified as harassment.

Vincent stated harassment could include a citizen cussing out a secretary. He stated he has not seen the email and could not comment on the issue.

Mayor Purcell stated he sent a response to the gentleman who sent the email and copied all the City Council members. He has not heard back from the sender.

Patton stated that harassment is really defined by the person to whom it is directed.

Mayor Purcell stated it would be hard to prove harassment when someone makes these comments to Council members. He understands it comes with the territory.

Givens stated that giving this person all this attention is what he is wanting. They need to ignore him.

Patton stated he met recently with residents of Terrace Hills Neighborhood Watch program and they made a generous donation to the local Red Cross chapter. He really appreciated their donation.

Haywood stated Maybelle Woods, a long time resident of Lawton, passed away at the age of 101 years old. Pastor Odum, husband of City of Lawton employee, Mary Odum, passed away. Also Gladys Harrison of Ward 7 and the mother of John Wolfenbarger have also passed.

He stated Langston University is playing Haskell University from Lawrence, Kansas. This is a Native American university that has been in existence since 1800 s. The game will be held on Saturday, November 12<sup>th</sup> @ 2:00 p.m. at Cameron University. He thanked Councilmember Shoemate for his help with the advertisement.

Warren questioned when there is a picture editorial in the paper, does the paper report the violation?

Mayor Purcell stated the paper does not report the violation. Staff has checked several times.

Warren stated there is a drop in the amount of blood available since the hurricane and encouraged everyone to

donate.

Mayor Purcell stated last year the State Legislature passed mandatory training for first time elected officials. He stated OML will host a training session in Lawton on October 13<sup>th</sup> and requested that anyone interested in attending to contact the City Clerk. He stated the City of Lawton has received \$225,000 from the Military Strategic Planning Committee which will help buy land to buffer Fort Sill. He stated the representative from the Office of Economic Adjustment that visited a month ago has contacted the City Manager and all we know is that there is some good news and we qualify for some assistance.

The Mayor and Council convened in executive session at 8:22 p.m. and reconvened in regular, open session at 8:40 p.m. Roll call reflected all members present.

#### BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

27. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss potential litigation regarding 3-Caldwell s, Inc., and take appropriate action in open session. Exhibits: None

Vincent read the title of Item 27 shown above. He said the Council discussed recommended action from the City Attorney s office.

MOVED by Patton, SECOND by Warren, to authorize the City Attorney to commence legal action in District Court for the collection of unpaid administrative fines imposed against 3-Caldwell s Inc. for discharge violations as assessed on March 9, 2005. AYE: Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Drewry. NAY: None. MOTION CARRIED.

28. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the consolidated law suit, in the Comanche County District Court, Comanche County Rural Water District No. 1, et al vs. City of Lawton and Lawton Water Authority, Case No. CJ-2003-928; and if necessary, take appropriate action in open session. Exhibits: None.

Vincent read the title of Item 28 shown above. He said the Council discussed the current status of the case and the workload of the City Attorney and if an additional outside attorney should be brought in as outside council to assist in this matter.

MOVED by Drewry, SECOND by Warren, to authorize the employment of John Munkacsy to assist the City Attorney s Office in the defense of Comanche County Rural Water District #1, et al vs. City of Lawton and Lawton Water Authority, Comanche County District Court, Case No. CJ-2003-928. AYE: Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson. NAY: None. MOTION CARRIED.

#### ADJOURNMENT

There being no further business to consider, the meeting adjourned at 8:42 p.m. upon motion, second and roll call vote.

JOHN P. PURCELL, JR., MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK

ADJOURNMENT